IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 19030 of 2006

For Approval and Signature:
HONOURABLE MS. JUSTICE R.M.DOSHIT

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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GANESH OIL MILLS - Petitioner(s)
Versus
ASSTT. PROVIDENT FUND COMMI. & 1 - Respondent(s)

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Appearance :
MRS SANGEETA PAHWA for M/S THAKKAR ASSOC. for Petitioner(s) : 1,
MR NIRAL R MEHTA for Respondent(s) : 1 - 2.

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CORAM : HONOURABLE MS. JUSTICE R.M.DOSHIT

Date : 13/03/2007

ORAL JUDGMENT

Heard the learned advocates.

RULE returnable today. Mr.Mehta waives service of rule. With the consent of the learned advocates, the petition is heard and disposed of today.

The petitioner, an employer within the meaning of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (hereinafter referred to as, **"the Act"**) challenges the action of the respondent-Assistant Provident Fund Commissioner in not reconsidering the question of applicability of the Act to the petitioner and the order made under Section 7A of the Act.

I am informed by Mrs.Pahwa that pursuant to the order dated 17th March, 2003 made by this Court (Coram: Ravi R.Tripathi, J.) in Special Civil Application No.2878/2003 preferred by the petitioner in the present subject matter, the petitioner had paid a sum of Rs.3,29,354=00 and the interest of Rs.56,009=00 against its outstanding dues. The remainder of the outstanding dues and the interest up-to-date totalling to Rs.1,13,643=00 has been paid by the petitioner on 28th February, 2007. In the submission of Mrs.Pahwa, the outstanding dues as assessed under Section 7A of the Act for the period from March, 1999 to October, 2001 has been paid along

with the interest up-to-date. The aforesaid statement is disputed by Mr.Mehta. He has submitted that the petitioner is still in arrears of interest to the extent of Rs.36,213=00.

On the facts stated above, the petitioner is directed to pay the outstanding interest in the sum of Rs.36,213=00 within one month from today. On petitioner's paying the aforesaid sum of Rs.36,213=00, the respondent-Assistant Provident Fund Commissioner will reopen the case and will reconsider the applicability of the Act to the petitioner establishment. The petitioner will be at liberty to submit its written representation within 15 days from the date the petitioner pays the aforesaid sum of Rs.36,213=00. On receipt of such reply and after giving opportunity of hearing to the petitioner, the Assistant Provident Fund Commissioner will decide the question of applicability of the Act to the petitioner establishment afresh.

Rule is made absolute in the above terms. The parties shall bear their own cost.

(Ms. R.M.Doshit, J.)

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